

Jared Blumenfeld, Regional Administrator, EPA Region 9 signed the following proposed rule on September 17, 2014, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the proposed rule, it is not the official version of the proposed rule for purposes of public comment. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDsys website (<http://fdsys.gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-R09-OAR-2013-0735

Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2013-0735; FRL-]

Approval of Implementation Plans and Designation of Areas for

Air Quality Planning Purposes; Las Vegas Valley, Nevada;

Redesignation to Attainment for PM₁₀

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Nevada state implementation plan that provides for the maintenance of the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM₁₀) in Las Vegas Valley for the next ten years and to approve the related motor vehicle emissions budgets. Based in part on the approval of the PM₁₀ maintenance plan, EPA is also taking final action to grant the State of Nevada's request for redesignation of Las Vegas Valley to attainment for the PM₁₀ standard. Consistent with the assumptions of the maintenance plan, EPA is approving revisions to certain local fugitive dust rules to ensure their continued applicability after redesignation of the area to attainment. Lastly, EPA is taking

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for the revoked national standard for total suspended

particulate because the designation is no longer necessary.

DATES: This rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R09-OAR-2013-0735. Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., confidential business information or "CBI"). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (775) 434-8176, oconnor.karina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," or "our" refer to EPA. This supplementary information section is arranged as follows:

Table of Contents

I. Proposed Actions

II. Public Comments

III. Final Action

IV. Statutory and Executive Order Reviews

I. Proposed Actions

On July 21, 2014 (79 FR 42258), under Clean Air Act (CAA or "Act") section 110(k)(3), EPA proposed to approve a submittal from the Nevada Division of Environmental Protection (NDEP) dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM₁₀), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM₁₀ Maintenance Plan") as a revision to the Nevada state implementation plan (SIP). In so doing, we found that the Las Vegas Valley PM₁₀ Maintenance Plan adequately demonstrates that the area will maintain the PM₁₀ national ambient air quality standard (NAAQS or "standard") for 10 years beyond redesignation and includes sufficient contingency provisions to promptly correct any violation of the PM₁₀ standard which occurs after redesignation and thereby meets the requirements for maintenance plans under CAA section 175A. We also proposed to approve the motor vehicle emissions budgets (MVEBs) in the Las Vegas Valley PM₁₀ Maintenance Plan because we found they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

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In our July 21, 2014 proposed rule, under CAA section 107(d)(3)(D), we proposed to grant NDEP's request to redesignate the Las Vegas Valley PM₁₀ nonattainment area from "nonattainment" to "attainment" for the PM₁₀ standard. We proposed to do so based on our conclusion that the Las Vegas Valley has attained the PM₁₀ standard¹; that the relevant portions of the Nevada SIP are fully approved; that the improvement in air quality is due to permanent and enforceable emissions reductions; that the State of Nevada has met all of the requirements applicable to the Las Vegas Valley PM₁₀ nonattainment area with respect to section 110 and part D of the CAA; and, based on our proposed approval as described above, that the Las Vegas Valley PM₁₀ Maintenance Plan meets the requirements for maintenance plans under section 175A of the CAA; and that, therefore, the State of Nevada has met the criteria for redesignation under CAA section 107(d)(3)(E) for the Las Vegas Valley PM₁₀ nonattainment area.

Next, we proposed to approve certain fugitive dust rules (i.e., Clark County Air Quality Regulations sections 41, and 90 through 93) that Clark County has amended to ensure their continued applicability after the area is redesignated to

¹ In our proposed approval, EPA stated that "SLAMS data for 2014 are not yet available... but will be reviewed prior to final action to ensure that they are consistent with continued attainment." 79 FR at 42263. We have now reviewed 2014 data, submitted to AQS as of September 12, 2014, and have found it to be consistent with continued attainment.

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Lastly, we proposed to delete the area designation for Las Vegas Valley for the revoked NAAQS for total suspended particulate.

Please see our July 21, 2014 proposed rule for a detailed discussion of the background for these actions, and the rationale for approval of the Las Vegas Valley PM₁₀ Maintenance Plan, for granting NDEP's request for redesignation of Las Vegas Valley to attainment, for approving Clark County's amended fugitive dust rules, and for deleting the TSP designation for Las Vegas Valley.

II. Public Comments

Our July 21, 2014 proposed rule provided a 30-day public comment period, which closed on August 20, 2014. We received no comments on our proposal during this period.

III. Final Action

Under CAA section 110(k)(3), and for the reasons set forth in our July 21, 2014 proposed rule, EPA is taking final action to approve NDEP's submittal dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM₁₀)*, Clark County, Nevada (August 2012) ("Las Vegas Valley PM₁₀ Maintenance Plan") as a revision to the Nevada SIP. EPA finds that the maintenance demonstration showing how the

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Second, under CAA section 107(d)(3)(D), we are taking final action to grant NDEP's request, which accompanied the submittal of the maintenance plan, to redesignate the Las Vegas Valley PM₁₀ nonattainment area to attainment for the 24-hour PM₁₀ NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our determination that the area has attained the 24-hour PM₁₀ NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that Nevada has met all requirements applicable to the Las Vegas Valley PM₁₀ nonattainment area with respect to section 110 and part D of the CAA, and based on our approval as part of this action of the Las

This document is a prepublication version, signed by Jared Blumenfeld, Regional Administrator, EPA Region 9 on September 17, 2014. We have taken steps to ensure the accuracy of this version, but it is not the official version. Vegas Valley PM₁₀ Maintenance Plan. Our determination that the area has attained the 24-hour PM₁₀ NAAQS is based in part on our concurrence with Clark County DAQ that the exceedances monitored in Las Vegas Valley on July 3, 2011 were caused by a high wind exceptional event and our related exclusion of the exceedances from the attainment determination.

Third, EPA is taking final action to approve revisions to Clark County fugitive dust rules sections 41, and 90 through 93 that were submitted on May 27, 2014 as a revision to the Nevada SIP because we find that they ensure continued implementation of the rules after redesignation of Las Vegas Valley to attainment and because they meet all other applicable requirements.²

Lastly, EPA is taking final action to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d) (3) (E) are actions that affect the status of a

² Approval of Clark County amended sections 41, and 90 through 93 will supersede the following existing rules in the applicable Nevada SIP: section 41 as approved at 46 FR 43141 (August 27, 1981); section 90 as approved at 71 FR 63250 (October 30, 2006); section 91 as approved at 69 FR 32272 (June 9, 2004); section 92 as approved at 71 FR 63250 (October 30, 2006); and section 93 as approved at 71 FR 63250 (October 30, 2006).

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requirements on sources beyond those imposed by State law.

Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those by State law. For these reasons, these actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the

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Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian

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impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, EPA has discussed the action with the one Tribe, the Las Vegas Paiute Tribe, located within the Las Vegas Valley PM₁₀ nonattainment area.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days from date of publication**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor

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review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated:

Jared Blumenfeld
Regional Administrator,
Region IX.

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Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52--[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart DD - Nevada

2. Section 52.1470 is amended by:

a. In paragraph (c), revising the entries for "Section 41: Subsections 41.1-41.4," "Section 90," "Section 91," "Section 92," and "Section 93."

b. In the table in paragraph (e), adding an entry for "Redesignation Request and Maintenance Plan for Particulate Matter (PM₁₀), Clark County, Nevada (August 2012)" after the entry for "Pages 4-125 and 4-126 and appendix R (of the PM-10 State Implementation Plan for Clark County)."

The revised text reads as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

Table 3-EPA-Approved Clark County Regulations

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
*	*	*	*	*

Section 41	Fugitive Dust	4/29/14	[<u>Insert Federal Register</u> page number where the document begins and insert date of <u>FR</u> publication date]	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
* * * * *				
Section 90	Fugitive Dust from Open Areas and Vacant Lots	4/29/14	[<u>Insert Federal Register</u> page number where the document begins and insert date of <u>FR</u> publication date]	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 91	Fugitive Dust from Unpaved Roads, Unpaved Alleys, and Unpaved Easement Roads	4/29/14	[<u>Insert Federal Register</u> page number where the document begins and insert date of <u>FR</u> publication date]	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 92	Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards	4/29/14	[<u>Insert Federal Register</u> page number where the document begins and insert date of <u>FR</u>	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.

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			publication date]	
Section 93	Fugitive Dust from Paved Roads & Street Sweeping Equipment	4/29/14	[Insert <u>Federal Register</u> page number where the document begins and insert date of FR publication date]	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
*	*	*	*	*

* * * *

(e) * * *

EPA-Approved Nevada Nonregulatory Provisions and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada				
*	*	*	*	*
Redesignation Request and Maintenance Plan for Particulate Matter (PM ₁₀), Clark County,	Las Vegas Valley, Clark County	9/7/12	[Insert <u>Federal Register</u> page number where the document begins and insert date of <u>FR</u>	Excludes appendix B ("Documentation of the Public Review Process").

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Nevada (August 2012).			publicatio n date]	
*	*	*	*	*

PART 81--[AMENDED]

3. The authority citation for part 81 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart C – [AMENDED]

4. Section 81.329 is amended by:

a. In the table for “Nevada–TSP,” removing the entry for “Las Vegas Valley (212) (15–24S, 56–64E).”

b. In the table for “Nevada–PM–10,” revising the entry for “Clark County” to read as follows:

§ 81.329 Nevada.

* * * * *

Nevada – PM–10

Designated Area	Designation ^a		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
Clark County: Las Vegas planning area Hydrographic area 212	[Insert date 30 days from date of	Attainme nt		

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